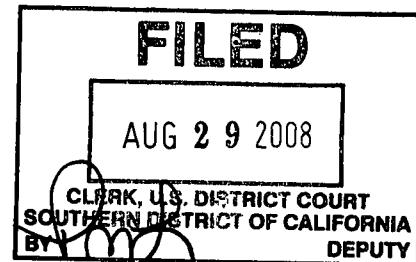


1 KAREN P. HEWITT  
United States Attorney  
2 REBECCA S. KANTER  
Assistant United States Attorney  
3 California State Bar No. 230257  
United States Attorney's Office  
4 Federal Office Building  
880 Front Street, Room 6293  
5 San Diego, California 92101  
Telephone: (619) 557-6747  
6

7 Attorneys for Plaintiff  
UNITED STATES OF AMERICA  
8



9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, ) Criminal Case No. 08CR2427 - BTM  
12 Plaintiff, )  
13 v. )  
14 MIGUEL ANGEL FLORES-LEY (2), )  
15 Defendant. )  
16

STIPULATION OF FACT AND JOINT  
MOTION FOR RELEASE OF  
MATERIAL WITNESS(ES) AND  
ORDER THEREON

17 IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES  
18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Carla J.  
19 Bressler, Assistant United States Attorney, and defendant MIGUEL ANGEL FLORES-LEY, by and  
20 through and with the advice and consent of Victor Torres, counsel for defendant, that:

21 1. Defendant agrees to execute this stipulation at the next court date and to  
22 participate in a full and complete inquiry by the Court into whether defendant knowingly,  
23 intelligently and voluntarily entered into it. Defendant agrees further to plead guilty to count two  
24 of the Indictment charging defendant with Transportation of Aliens and Aiding and Abetting, in  
25 violation of 8 U.S.C. §1324(a)(1)(A)(ii) and (v)(II).

26 2. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
27 before August 29, 2008.

28 //

1       3. The material witnesses, Francisco Javier Uribe-Pelayo, Ernestina Patricia Serrano,  
2 and Victor Manuel Morales-Izarraraz, in this case:

3           a. Are aliens with no lawful right to enter or remain in the United States;  
4           b. Entered or attempted to enter the United States illegally on or about  
5 June 25, 2008;

6           c. Were found in a vehicle driven by defendant near San Ysidro, California  
7 and that defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful  
8 right to enter or remain in the United States;

9           d. Were paying between \$4,000-\$4,500 to others to be brought into the United  
10 States illegally and/or transported illegally to their destination therein; and,

11           e. May be released and remanded immediately to the Department of Homeland  
12 Security for return to their country of origin.

13       4. After the material witnesses are ordered released by the Court pursuant to this  
14 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
15 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,  
16 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

17           a. The stipulated facts set forth in paragraph 3 above shall be admitted as  
18 substantive evidence;

19           b. The United States may elicit hearsay testimony from arresting agents  
20 regarding any statements made by the material witness(es) provided in discovery, and such testimony  
21 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest  
22 of (an) unavailable witness(es); and,

23           c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
24 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted  
25 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant  
26 waives the right to confront and cross-examine the material witness(es) in this case.

27       //

28 Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Miguel Angel Flores-Ley (2)

1       5. By signing this stipulation and joint motion, defendant certifies that defendant has  
2 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
3 further that defendant has discussed the terms of this stipulation and joint motion with defense  
4 counsel and fully understands its meaning and effect.

Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witness(es) to the Department of Homeland Security for return to their country of origin.

8 It is STIPULATED AND AGREED this date.

Respecifuly submitted,

KAREN P. HEWITT  
United States Attorney

12 Dated: 8/29/08

REBECCA S. KANTER  
Assistant United States Attorney

14 Dated: 8/28/08

VICTOR TORRES  
Defense Counsel for Miguel Angel Flores-Ley

17 Dated: 8/28/08

Miguel Angel Flores Ley  
MIGUEL ANGEL FLORES-LEY  
Defendant

## ORDER

Upon joint application and motion of the parties, and for good cause shown,

**THE STIPULATION** is admitted into evidence, and

**IT IS ORDERED** that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

**SO ORDERED.**

Dated: 8/29/08

Benny Old Marshall  
United States Magistrate Judge 7A-08  
District